

State Children's Health Insurance Program (CHIP) Legislative History

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Summary

The Balanced Budget Act of 1997 (P.L. 105-33, BBA-97) established the State Children's Health Insurance Program (CHIP) under a new Title XXI of the Social Security Act. CHIP builds on Medicaid by providing health care coverage to low-income, uninsured children in families with incomes above applicable Medicaid income standards. This report provides a summary of major changes to the State Children's Health Insurance Program (CHIP) enacted in public laws beginning with the legislation authorizing the program in 1997. It will be updated as legislative activity warrants.

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Background

The Balanced Budget Act of 1997 (P.L. 105-33, BBA-97) established the State Children's Health Insurance Program (CHIP) under a new Title XXI of the Social Security Act. CHIP builds on Medicaid by providing health care coverage to low-income, uninsured children in families with incomes above applicable Medicaid income standards. This report provides a summary of major changes to CHIP enacted in public laws beginning with the legislation authorizing the program in 1997.

Balanced Budget Act of 1997 (BBA 97), P.L. 105-33

- *Creation of CHIP.* Under BBA 97, the State Children's Health Insurance Program was established, effective August 5, 1997. A number of provisions specified eligibility criteria; coverage requirements for health insurance; federal allotments and the state allocation formula; payments to states and the enhanced federal medical assistance percentage (FMAP) formula; the process for submission, approval and amendment of state CHIP plans; strategic objectives and performance goals, and plan administration; annual reports and evaluations; options for expanding coverage of children under Medicaid; and diabetes grant programs.
- *CBO Scoring.* In making its cost estimates, the Congressional Budget Office (CBO) is required to assume that programs in existence on or before the enactment of BBA97 (which would include CHIP) that lack future appropriations but with current-year outlays of at least \$50 million will continue operating at the last appropriated level.

District of Columbia Appropriations Act of 1998, P.L. 105-100

- *Increased Appropriation.* This law increased the FY1998 CHIP appropriation from \$4.275 billion to \$4.295 billion.

Omnibus Consolidated and Emergency Supplemental Appropriation Act, FY1999, P.L. 105-277

- *Increased Appropriation for Territories.* For FY1999, an additional appropriation of \$32 million for the territories was provided, bringing the FY1999 total appropriation to \$4.307 billion.
- *Freeze Each State's Share of Appropriation.* Each state's percentage of the total appropriation available to states for the FY1998 CHIP allotments was also used for determining the FY1999 allotments.
- *Change in Allotment Formula Affecting Some Native American Children.* For FY1998 and FY1999, the law changed the annual state allotment formula by stipulating that children with access to health care funded by the Indian Health Service and no other health insurance would be counted as uninsured (rather than as insured as required under the previously existing law).

The Medicare, Medicaid and SCHIP Balanced Budget Refinement Act of 1999 (BBRA 99), incorporated by reference in the Consolidated Appropriations Act for Fiscal Year 2000, P.L. 106-113

- *Stabilizing the CHIP Allotment Formula.* Annual federal allotments to each state are determined in part by states' success in covering previously uninsured low-income children under CHIP. Under prior law, the more successful a state was in enrolling children in CHIP, especially early in the program, the greater the potential reduction in subsequent annual allotments. To limit the amount a state's allocation could fluctuate from one year to the next, BBRA 99 modified the allotment distribution formula and established new floors and ceilings.
- *Targeted, Increased Allotments.* Additional allotments for the commonwealths and territories were provided for FY2000-FY2007.
- *Improved Data Collection.* The law provided new funding for the collection of data to produce reliable, annual state-level estimates of the number of uninsured children. These data changes were to improve research and evaluation efforts, and to improve the reliability of the estimates using in the formula that determines annual state-specific allotments from federal CHIP appropriations.
- *Federal Evaluation.* New funding was also provided for a federal evaluation¹ to identify effective outreach and enrollment practices for both CHIP and Medicaid, barriers to enrollment, and factors influencing beneficiary drop-out.
- *Additional Reports and a Clearinghouse.* The law also required (a) an inspector general audit² and Government Accountability Office (GAO) report on enrollment of Medicaid-eligible children in CHIP,³ (b) states to report annually the number of deliveries to pregnant women and the number of infants who receive services under the Maternal and Child Health Services Block Grant or who are entitled to CHIP benefits, and (c) the Secretary of Health and Human Services to establish a clearinghouse for the consolidation and coordination of all federal databases and reports regarding children's health.

Agriculture Risk Protection Act of 2000, P.L. 106-224

- *Information Sharing.* This law allowed schools operating federally subsidized school meal programs to take a more active role in identifying children eligible for, and enrolling such children in, the Medicaid and CHIP programs. It permitted schools to share income and other relevant information collected when determining eligibility for free and reduced-price school meals with state Medicaid and CHIP agencies, as long as there is a written agreement that limits use of the information and parents are notified and given a chance to "opt out."

¹ For the latest evaluation report, see [<http://www.cms.hhs.gov/Reports/Downloads/Rosenbach9-19-07.pdf>]. For additional reports describing results from other components of the national evaluation of CHIP, go to [<http://aspe.os.dhhs.gov/health/schip/schiphome.htm>].

² See for example, Department of Health and Human Services, Office of Inspector General, State Children's Health Insurance Program: Assessment of State Evaluations Reports, OEI-05-00-00240, February 2001, and Department of Health and Human Services, Office of Inspector General, State Children's Health Insurance Program: Ensuring Medicaid Eligibles are not Enrolled in CHIP, OEI-05-00-00241, February 2001.

³ See for example, U.S. General Accounting Office, Children's Health Insurance: Inspector General Reviews Should Be Expanded to Further Inform the Congress, GAO-02-512, March 2002.

- *Demonstration Project.* The law also established a demonstration project in one state in which administrative funds under the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) may be used to help identify children eligible for, and enroll such children in, the Medicaid and CHIP programs.

Children's Health Act of 2000, P.L. 106-310

- *Rights of Institutionalized Children.* The law required that general hospitals, nursing facilities, intermediate care and other health care facilities receiving federal funds, including CHIP, protect the rights of each resident, including the right to be free from physical or mental abuse, corporal punishment, and any restraints or involuntary seclusions imposed for the purposes of discipline or convenience. Restraints and seclusion may be imposed in such facilities only to ensure the physical safety of the resident, a staff member or others. Additional requirements govern reporting of resident deaths, promulgation of regulations regarding staff training, and enforcement.
- *Children's Rights in Community-Based Settings.* The law also included requirements for protecting the rights of residents of certain non-medical, community-based facilities for children and adolescents, when that facility receives funding under this act or under Medicaid. (Existing regulations did not clarify if and how these rights apply to such facilities funded by CHIP.) For such individuals and facilities, restraints and seclusion may only be imposed in emergency circumstances and only to ensure the physical safety of the resident, a staff member or others, and where less restrictive interventions have been determined to be ineffective. Additional requirements govern reporting of resident deaths, promulgation of regulations regarding staff training, and enforcement.

Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA), incorporated by reference into the Consolidated Appropriations Act 2001, P.L. 106-554

- *Special Redistribution Rules for Unspent FY1998 and FY1999 Allotments.* For each of these years separately, a pool of unspent funds was created from the unused allotment amounts of those states that did not fully expend their original allotments within the applicable three-year time frame. From this pool, 1.05% was set aside for the territories that fully exhaust their original allotments. Each such territory received a percentage of the available 1.05% pool equal to that territory's original allotment divided by the sum of original allotments for such territories. Then the states that did fully expend their original allotments within the three-year deadline received access to redistributed funds from the remaining pool equal to the amount by which their three-year spending exceeds their original allotments.⁴ The remaining states that did not use all their original allotments for the year retained access to a portion of the remaining funds in the pool, equal to the ratio of such a state's unspent original allotment to the total

⁴ For example, if a state's FY1998 allotment was \$10 million, and the state's FY1998, FY1999 and FY2000 spending totaled \$12 million, the state would receive access to a redistribution of \$2 million.

amount of unspent funds for that fiscal year. These latter states were permitted to use up to 10% of their retained FY1998 funds for outreach activities. This allowance was over and above spending for such activities under the general administrative cap described above. The deadline for spending all redistributed and retained funds from FY1998 and FY1999 was September 30, 2002, although this date was extended by P.L. 108-74 as described below. (See the text for additional information on redistribution of unspent CHIP funds.)

- *Presumptive Eligibility.* Under Medicaid presumptive eligibility rules, states are allowed to temporarily enroll children whose family income appears to be below Medicaid income standards, until a final formal determination of eligibility is made. BIPA clarified states' authority to conduct presumptive eligibility determinations, as defined in Medicaid law, under separate (non-Medicaid) CHIP programs.
- *Authority to Pay CHIP Medicaid Expansion Costs from Title XXI Appropriation.* Under prior law, states' allotments under CHIP paid only the federal share of costs associated with separate (non-Medicaid) CHIP programs. The federal share of costs associated with covering targeted low-income children under Medicaid was paid for by Medicaid. State CHIP allotments were reduced by the amounts paid by Medicaid for such costs. BIPA authorized the payment of the costs of targeted low-income children under Medicaid, and the costs of benefits provided during periods of presumptive eligibility, from the CHIP appropriation rather than the Medicaid appropriation, and as a conforming amendment, eliminated the requirement that state CHIP allotments be reduced by these (former) Medicaid payments. Also, for FY1998-FY2000 only, BIPA authorized the transfer of unexpended CHIP appropriations to the Medicaid appropriation account for the purpose of reimbursing payments made on behalf of targeted low-income children under Medicaid.

Public Health Security and Bioterrorism Preparedness and Response Act of 2002, P.L. 107-188

- *Waiver of Provider Requirements and Medicare+Choice Payment Limits.* The law authorized the Secretary to temporarily waive conditions of participation and other certification requirements for any entity that furnishes health care items or services to Medicare, Medicaid, or CHIP beneficiaries in an emergency area during a declared disaster or public health emergency. During such an emergency, the Secretary may waive: (1) participation, state licensing (as long as an equivalent license from another state is held and there is no exclusion from practicing in that state or any state in the emergency area), and pre-approval requirements for physicians and other practitioners; (2) sanctions for failing to meet requirements for emergency transfers between hospitals; (3) sanctions for physician self-referral; and (4) limitations on payments for health care and services furnished to individuals enrolled in Medicare+Choice (M+C) plans when services are provided outside the plan. To the extent possible, the Secretary must ensure that M+C enrollees do not pay more than would have been required had they received care within their plan network.
- *Notification to Congress.* The law also required the Secretary to provide Congress with certification and written notice at least two days prior to

exercising this waiver authority. It also provided for this waiver authority to continue for 60 days, and permits the Secretary to extend the waiver period.

- *Evaluation.* The Secretary was further required, within one year after the end of the emergency, to provide Congress with an evaluation of this approach and recommendations for improvements under this waiver authority.

Health Care Safety Net Amendments of 2002, P.L. 107-251

- *Study of Migrant Farm Workers.* This law required the Secretary to conduct a study of the problems experienced by farm workers and their families under Medicaid and CHIP, specifically, barriers to enrollment, and lack of portability of Medicaid and CHIP coverage for farm workers eligible in one state who move to other states on a periodic basis. The Secretary must also identify possible strategies to increase enrollment and access to benefits for these families. Strategies to be examined must include (1) use of interstate compacts to establish portability and reciprocity, (2) multi-state demonstration projects, (3) use of current law flexibility for coverage of residents and out-of-state coverage, (4) development of programs of national migrant family coverage, (5) use of incentives to private coverage alternatives, and (6) other solutions as deemed appropriate. In conducting the study, the Secretary must consult with several groups. The Secretary must submit a report on this study to the President and Congress in October 2003. This report was to address findings and conclusions and provide recommendations for appropriate legislative and administrative action.

State Children's Health Insurance Program Allotments Extension Act, P.L. 108-74

- *Extension of Available CHIP Reallocated Funds from FY1998 and FY1999.* This law extended the availability of FY1998 and FY1999 reallocated funds through the end of FY2004 (rather than the end of FY2002).
- *Revision of Methods for Reallocation of Unspent FY2000 and FY2001, and Extension of the Availability of Such Funds.* The law also established a new method for reallocating unspent funds from FY2000 and FY2001 allotments. For each of these years separately, a pool of unspent funds was created from the unused allotment amounts of those states that did not fully expend their original allotments within the applicable three-year time frame. From this pool, 1.05% was set aside for the territories that fully exhausted that original allotment. Each such territory received a percentage of the available 1.05% pool equal to that territory's original allotment divided by the sum of original allotments for such territories. For each year separately, each state that did not spend its full original allotment by the three-year deadline retained 50% of its unspent funds. Then the remaining pool was allocated to each state that fully expended (exceeded) its original allotment by the three-year deadline. The redistribution amount for each such state was based on the proportion of its excess spending relative to the total amount of excess spending for all such states. Reallocated funds for FY2000 and FY2001 were available until the end of FY2004 and FY2005, respectively.
- *Authority for Qualifying States to Use Certain Funds for Medicaid Expenditures.* For specific expenditures occurring after August 15, 2003, the law in §2105(g)

permitted certain states to apply federal CHIP funds toward the coverage of certain children enrolled in regular Medicaid (not a CHIP Medicaid expansion). Specifically, qualifying states could spend their available balances from FY1998-FY2001 (up to a maximum of 20% of those original allotments) for services delivered to Medicaid beneficiaries under age 19 who were not otherwise eligible for CHIP and had family income that exceeded 150% of the FPL. For such services, these federal CHIP funds could be used to pay the difference between the CHIP enhanced federal matching rate and the regular Medicaid federal matching rate the state received for these children. Qualifying states included those that on or after April 15, 1997 had an income eligibility standard of at least 185% of the FPL for at least one category of children, other than infants. (Other qualifications applied to states with statewide waivers under Section 1115 of the Social Security Act.) Under this law, the qualifying states included Connecticut, Minnesota, New Hampshire, Tennessee, Vermont, Washington, and Wisconsin.

Technical Corrections with Respect to the Definition of Qualifying State, P.L. 108-127

- *Change in the Income Standard and Applicable Dates.* This law modified P.L. 108-74 by changing the income eligibility standard affecting some qualifying states from 185% to 184% of the FPL. It also modified applicable dates with respect to certain states with Section 1115 waivers that covered children in families with income of at least 185% of the FPL. The effect of these changes was to add four states (i.e., Hawaii, Maryland, New Mexico, and Rhode Island) to the set of qualifying states, thus allowing them to also use certain funds for Medicaid expenditures (see above description for P.L. 108-74).

Deficit Reduction Act of 2005, P.L. 109-171

- *Additional allotments to eliminate FY2006 funding shortfalls.* This law appropriated \$283 million for shortfall states and territories in FY2006. A shortfall state was defined as a state that the Secretary estimated would have expenditures in FY2006 that exceeded the sum of all available CHIP funds in that year (i.e., reallocated unspent FY2003 funds, balances remaining from FY2004 and FY2005 original allotments, and FY2006 original allotments), based on the most recent CHIP data as of December 31, 2005. From the new FY2006 appropriation, after a 1.05% set-aside for the territories, each FY2006 shortfall state received an allotment intended to cover its projected shortfall. On October 1, 2006, any remaining unspent additional allotments were to revert to the Treasury. The additional FY2006 appropriation was restricted to payments for benefits provided to targeted low-income children only.
- *Prohibition against covering non-pregnant, childless adults with CHIP funds.* The Secretary of HHS was prohibited from approving new 1115 waivers, on or after October 1, 2005, that would use CHIP funds to provide coverage to non-pregnant, childless adults. The Secretary could continue to approve projects that expanded CHIP to caretaker relatives of Medicaid- or CHIP-eligible children, and to pregnant adults. Existing waivers that used CHIP funds to cover non-pregnant, childless adults (including extensions, amendments, and renewals of such waivers) that were approved before enactment of DRA were allowed to continue.

- *Continued authority for qualifying states to use CHIP funds for certain Medicaid expenditures.* The law allowed qualifying states to use any available FY2001, FY2004, and FY2005 CHIP funds (i.e., original allotments and/or reallocated funds, as applicable) for coverage of certain children enrolled in regular Medicaid (not an CHIP Medicaid expansion) for such Medicaid payments made on or after October 1, 2005, up to the 20% allowance. See the discussion of P.L. 108-74 and P.L. 108-127 for more details.

National Institutes of Health Reform Act of 2006, P.L. 109-482

- *Prioritizing Redistribution of Unspent FY2004 Original Allotments.* The Secretary of HHS was required to redistribute unspent FY2004 original allotments to states in the order in which they were projected to exhaust their federal CHIP funds.
- *Early, Partial Redistribution of Unspent FY2005 Original Allotments.* An initial redistribution was required of up to half of states' unspent FY2005 original allotments as of March 31, 2007 (capped at \$20 million per state)—after 2½ years of availability. For a state to forgo unspent FY2005 funds on that date, the state's total CHIP balances (from the FY2005-FY2007 original allotments) as of March 31, 2007, had to be at least double what the state projected to spend in federal CHIP funds in FY2007. These funds were also targeted to shortfall states in the order in which those shortfalls were experienced. The initial redistribution of unspent FY2005 funds did not replace the regular redistribution at the end of the allotment's three-year period of availability. Thus, among the states that did forgo half of their unspent FY2005 funds on March 31, 2007, any amount still unspent at the end of FY2007 was redistributed to other states after having been available for three years.
- *Limitations on Spending.* The FY2004 and FY2005 redistributed funds available in FY2007 could only be used to cover populations eligible in a state's CHIP program as of October 1, 2006. The FY2004 and FY2005 redistributed funds could pay only the regular FMAP, rather than the enhanced CHIP FMAP, for non-pregnant adults enrolled in CHIP. The Secretary was authorized to alter the amount of FY2004 and FY2005 redistributed funds received by states on the basis of actual end-of-FY2007 expenditures, to account for how actual expenditures may differ from the projections on which the initial redistributions were based, with some limitations. The territories did not receive any FY2004 and FY2005 redistributed funds in FY2007.
- *Continued authority for qualifying states to use CHIP funds for certain Medicaid expenditures.* The law allowed qualifying states to use any available FY2006 and FY2007 CHIP funds (in addition to the FY2005 funds) for coverage of certain children enrolled in regular Medicaid (not an CHIP Medicaid expansion), up to the 20% allowance. See the discussion of P.L. 108-74 and P.L. 108-127 for more details.

U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, P.L. 110-28

- *Elimination of remainder of CHIP funding shortfalls, tiered match, and other limitation on expenditures.* This law required the Secretary of HHS to allot to

certain shortfall states the amount determined by the Secretary to eliminate each such state's estimated FY2007 shortfall, not to exceed a total of \$650 million for all such states. Shortfall states were defined as those for which projected FY2007 federal expenditures would exceed the sum of (1) the amount of the state's unspent FY2005 and FY2006 allotments still available by the end of FY2006, (2) the state's FY2007 allotment, and (3) the amounts of redistributed FY2004 and FY2005 funds available to the state in FY2007 (if any). It also eliminated the requirement in P.L. 109-482 that redistributed FY2004 and FY2005 funds pay only the regular FMAP for non-pregnant adults in CHIP.

- *Prohibition.* P.L. 110-28 also prohibited the Secretary of HHS from taking an administrative action to finalize or otherwise implement Medicaid administrative proposals related to intergovernmental transfers (payments for government providers) and graduate medical education for one year from the date of enactment of this law.
- *Requirement for use of tamper-resistant prescription pads under the Medicaid Program.* The law required the use of tamper-resistant pads for Medicaid prescriptions executed after September 30, 2007. It also allowed any state operating a Medicaid Pharmacy Plus waiver that would otherwise expire on June 30, 2007, to continue operating the waiver through December 31, 2009.

Continuing Resolutions (P.L. 110-92, P.L. 110-116, P.L. 110-137, P.L. 110-149)

- *FY2008 allotments.* Each continuing resolution provided FY2008 CHIP allotments of \$5.04 billion, the same amount used in FY2007, through the specified termination dates (respectively, November 16, December 14, December 21, and December 31, 2007).
- *FY2005 redistribution.* Each continuing resolution redistributed unspent FY2005 funds to those states that experienced shortfalls in FY2008, through the specified termination dates.
- *Qualifying states.* Each continuing resolution permitted the use of FY2008 allotments for expenditures allowed for qualifying states under §2105(g), through the specified termination dates.

Medicare, Medicaid, and SCHIP Extension Act of 2007, P.L. 110-173

- *CHIP allotments.* The law made the \$5.04 billion FY2008 allotments available through March 31, 2009. It also appropriated \$5.04 billion for FY2009 allotments, available through March 31, 2009. The allotment to states in FY2008 and FY2009 continued to be based on the statutory formula using the estimated number of low-income children and low-income uninsured children in each state, adjusted slightly by a geographic cost factor.
- *Redistribution.* The law made the method in the continuing resolutions for redistributing unspent FY2005 funds permanent. In addition, FY2006 allotments unspent at the end of FY2008 were to be redistributed to states projected to exhaust all of their CHIP funds in FY2009 before March 31, 2009. The redistributed FY2006 funds were to be provided, until exhausted, to states in the order in which those shortfalls occur.

- *Additional appropriations for states' shortfalls of federal CHIP funds.* Such sums as necessary, not to exceed \$1.6 billion, were appropriated in FY2008 to (1) eliminate states' shortfalls of federal CHIP funds and (2) provide 1.05% of states' projected shortfall amounts to the territories. These funds were only available for FY2008, and unspent funds were not available for redistribution. Such sums as necessary, not to exceed \$275 million, were appropriated in FY2009 to (1) eliminate states' shortfalls of federal CHIP funds in the first two quarters of FY2009, and (2) provide 1.05% of states' projected shortfall amounts to the territories. These funds were only available for the first two quarters of FY2009, and unspent funds were not available for redistribution.
- *Qualifying states.* The ability of qualifying states to use their FY2008 allotments for expenditures under §2105(g), as initially permitted under the continuing resolutions, is made permanent. Qualifying states' ability to use FY2009 allotments under §2105(g) is permitted through March 31, 2009.
- *Improving data collection.* Due to concerns about inadequate sample sizes in the Current Population Survey (CPS) for making estimates of states' number of low-income children, for the purpose of determining states' federal CHIP allotments, \$10 million was appropriated in CHIP statute annually beginning in FY2000 (see description of P.L. 106-113 above). This law provided \$20 million, instead of \$10 million, in CHIP statute for the CPS in FY2008.

Children's Health Insurance Program Reauthorization Act of 2009 (P.L. 111-3)

- *Allotments for states and territories for fiscal years 2009 through 2013.* The law provided a national appropriation for CHIP allotments totaling \$68.9 billion over five years (which represents an increase of \$43.6 billion over the prior law baseline of \$25.3 billion), distributed to states and territories using a new formula primarily based on their past and/or projected federal CHIP spending. For FY2009 onward, annual allotments would be available for two years, with unspent funds available for redistribution first to shortfall states and then toward bonus payments, described below.⁵
- *Child Enrollment Contingency Fund.* The law established a new contingency fund (for making payments to states for certain shortfalls of federal CHIP funds), which receives deposits through a separate appropriation each year through FY2013, and makes payments of up to 20% of the available national allotment for CHIP to each eligible shortfall state.
- *CHIP performance bonus payments to offset additional enrollment costs resulting from enrollment and retention efforts.* The law established new performance bonus payments (for states exceeding certain child enrollment levels and states that implement certain outreach and enrollment initiatives), which are funded with a FY2009 appropriation of \$3.225 billion and deposits of certain unspent CHIP funds through FY2013.

⁵ Cost estimates from the Congressional Budget Office (CBO) indicated that CHIPRA would increase overall outlays (across all provisions of the bill) by \$32.8 billion over five years (FY2009-13), which would be offset primarily by increases in federal tobacco taxes, estimated to increase on-budget revenue by \$32.8 billion over five years.

- *Option for states to receive the enhanced portion of the CHIP matching rate for Medicaid coverage of certain children.* The law allows qualifying states to use FY2009-13 CHIP allotments for additional funding of children above 133% FPL enrolled in regular Medicaid (not a CHIP Medicaid expansion) without the 20% limitation. See the above discussion of P.L. 108-74 and P.L. 108-127 for more details.
- *State option to cover low-income pregnant women under CHIP through a state plan amendment.* The law created a state option to extend coverage to pregnant women under CHIP through a state plan amendment when certain conditions are met.
- *Termination of coverage for nonpregnant childless adults under CHIP; conditions for coverage of parents.* The law terminated CHIP adult coverage waivers, and established conditions to continue existing waivers under Medicaid.
- *Limitation on matching rate and availability of federal funds, and reduce federal CHIP payments for certain higher-income CHIP children.* The law specified that the regular FMAP would be used for CHIP enrollees whose effective family income exceeds 300% of poverty (with an exception for certain grandfathered states), and gave states the option to draw Medicaid funds at the regular FMAP for Medicaid-expansion SCHIP children above this level.
- *Grants and enhanced administrative funding for outreach and enrollment.* CHIPRA provided additional grants for outreach and enrollment totaling \$100 million each year through FY2013. Ten percent of the allocation would be directed to a national enrollment campaign, and 10 percent would be targeted to outreach for Native American children. The remaining 80 percent would be distributed among state and local governments and to community-based organizations for purposes of conducting outreach campaigns with a particular focus on rural areas and underserved populations and that address cultural and linguistic barriers to enrollment.
- *State option to rely on findings from an Express Lane agency to conduct simplified eligibility determinations.* CHIPRA included a state option to rely on findings from specified "Express Lane" agencies for eligibility determinations in Medicaid and CHIP, and a requirement that state plans describe the procedures used to reduce the administrative barriers to the enrollment of children and pregnant women in Medicaid and CHIP.
- *Verification of declaration of citizenship or nationality for purposes of eligibility for Medicaid and CHIP.* The law included a provision to provide a specific alternative for states to verify proof of citizenship, and added a requirement for citizenship documentation in SCHIP.
- *Permitting states to ensure coverage without a five-year delay of legal immigrant children and pregnant women under the Medicaid program and CHIP.* The law created a state option to waive the five-year bar for Medicaid or SCHIP coverage to pregnant women and children who are lawfully residing in the United States and are otherwise eligible for such coverage when certain requirements are met.
- *State option for providing premium assistance.* The law established a state plan option for premium assistance to enroll in employer-based health insurance, and eliminated barriers to providing such premium assistance. States were also required to provide outreach, education, and enrollment assistance for families of children likely to be eligible for premium assistance subsidies under CHIP, or a

waiver approved under §1115, and amended the Employee Retirement Income Security Act (ERISA) to streamline coordination between public and private coverage, including making the loss of Medicaid/CHIP eligibility a “qualifying event” for the purpose of purchasing employer-sponsored coverage.

- *Quality of care and health outcomes.* The law included provisions to strengthen quality of care and health outcomes of children under Medicaid and CHIP.
- *Improving access to benefits.* CHIPRA added or modified several benefits available to children under CHIP (e.g., dental, mental health). Specifically, dental services became a required benefit under CHIP, and subject to certain conditions, states were permitted to provide dental-only supplemental coverage to children enrolled in group or employer coverage who otherwise meet CHIP eligibility criteria. With regard to mental health coverage, the law ensures that the financial requirements and treatment limits applicable to mental health or substance use disorder benefits must be no more restrictive than the financial requirements and treatment limitations applicable to substantially all medical and surgical benefits covered under the state CHIP plan.
- *Application of a prospective payment system for services provided by federally qualified health centers and rural health clinics.* The law required states that operate separate and/or combination CHIP programs to reimburse FQHCs and RHCs based on the Medicaid prospective payment system, and the Secretary is required to report to Congress on the effects of the new prospective payment system on access to benefits, provider payment rates or scope of benefits.
- *Premium grace period.* CHIPRA required states to provide CHIP enrollees with a grace period of at least 30 days from the beginning of a new coverage period to make premium payments before the individual's coverage may be terminated, and states must provide notice that failure to make a premium payment within the grace period will result in termination of coverage.
- *Medicaid and CHIP Payment and Access Commission.* The law established a Medicaid and CHIP Payment and Access Commission to review program policies under both Medicaid and CHIP affecting children's access to benefits, and will make recommendations to Congress concerning such access policies.
- *Program integrity and miscellaneous provisions.* The law included provisions to improve program integrity and data collection (including some provisions that affected the Medicaid program), and required the Secretary of HHS to conduct a new, independent federal evaluation of 10 states.
- *Extension of Medicaid DSH allotments for Tennessee and Hawaii.* The law extended the special DSH allotment arrangements for Tennessee and Hawaii through a portion of FY2012. Allotment amounts are equal to \$30 million for Tennessee for each full fiscal year—2010 and 2011—and one quarter of that amount is available for the first quarter of FY2012. Hawaii's \$10 allotment is extended for each full fiscal year—2010 and 2011—and \$2.5 million is available for the first quarter of FY2012.
- *Increase in excise tax rate under tobacco products and time for payment of corporate estimated taxes.* The law increased taxes on cigarettes and tobacco-related products (effective April 1, 2009), and included provisions affecting floor stock taxes that would apply to items removed from the manufacturer before the April 1, 2009, and subsequently sold after that date. With regard to corporate estimated taxes, the law increased the ratio to 120.5% and shifted \$300 million of

- corporate taxes from FY2014 to FY2013. The prior-law 120% withholding provision does not apply to firms with assets of less than \$1 billion, and the withholding increased under CHIPRA did not alter that exemption.

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